

Judge: Dore
Chapter: 13
Hearing: 8/21/2013
Place: Seattle
Time: 9:30 a.m.

UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON

In re:)
TOVA E. CUBERT,) Case No. 12-21877
Debtor.) UNITED STATES' JOINDER IN
CHAPTER 13 TRUSTEE'S MOTION TO
DISMISS)

COMES NOW the United States of America, by and through its attorneys, Jenny A. Durkan, United States Attorney for the Western District of Washington, and Catherine L. Campbell, Special Assistant United States Attorney for said District, on behalf of its Agency, the Internal Revenue Service (Service), and hereby joins in the Chapter 13 Trustee's Motion to Dismiss. The Service submits the following grounds in support of its objection to confirmation:

1. The Service timely filed a proof of claim in the total amount of \$49,891.59. Of that amount, \$44,185.33 is a secured claim and \$5,706.26 is a general unsecured claim.

2. The claim has not been objected to and is deemed allowed pursuant to 11 U.S.C. § 502.

United States' Joinder
in Chapter 13 Trustee's
Motion to Dismiss

- 1 -

Special Assistant United
States Attorney
915 Second Avenue, Rm. 2704
Seattle, WA 98174
(206) 220-5951

1 3. The Internal Revenue Service's secured claim must be
2 paid in full with interest at the rate specified in 26 U.S.C. §
3 6621. 11 U.S.C. § 1322(a)(5).

4 4. The second Amended Plan filed by the debtor is no more
5 feasible than the prior two plans. On July 19, 2013, this Court
6 ordered the debtor to file a feasible, amended plan by July 31,
7 20213. The Court also ordered that, unless the parties had
8 agreed on the valuation issue, the debtor file a declaration
9 from a third party real estate agent addressing the valuation of
10 her residential property she proposes to sell to fund the plan.
11 Instead, the debtor filed her own declaration. The parties have
12 not agreed with respect to the valuation of the residence or its
13 potential to generate proceeds sufficient to pay in full the
14 Service's secured claim. The debtor again proposes only minimal
15 payments until some "sale" in June 2017. That is not
16 acceptable.

17 5. The debtor is unable to fund a feasible plan that will
18 pay the Service's claim with interest in installments over the
19 remainder of the 60 months from the petition date. Therefore,
20 confirmation of the most recent plan should be denied,
21 additional time for modification of a plan should be denied, and
22 the case should be dismissed under 11 U.S.C. § 1307(c)(5).

23
24
25
26
United States' Joinder
in Chapter 13 Trustee's
Motion to Dismiss

- 2-

Special Assistant United
States Attorney
915 Second Avenue, Rm. 2704
Seattle, WA 98174
(206) 220-5951

1 DATED this 19th day of August, 2013.

2
3 JENNY A. DURKAN
United States Attorney

4
5 By: /s/ Catherine L. Campbell
6 Catherine L. Campbell, WSBA 2482
7 Special Assistant U.S. Attorney
8 Office of Chief Counsel, IRS
9 915 Second Avenue
10 Seattle, WA 98174
11 Phone: (206) 220-5637
12 Fax: (206) 220-5959
13
14
15
16
17
18
19
20
21
22
23
24
25
26

United States' Joinder
in Chapter 13 Trustee's
Motion to Dismiss

- 3-

Special Assistant United
States Attorney
915 Second Avenue, Rm. 2704
Seattle, WA 98174
(206) 220-5951

Judge: Dore
Chapter: 13
Date: 8/21/2013
Place: Seattle
Time: 9:30 a.m.

UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON

In re:) Case No. 12-21877
TOVA E. CUBERT,)
Debtor.) CERTIFICATE OF SERVICE
)
)
)

The undersigned hereby certifies that (s)he is an employee of the Office of the Chief Counsel, Internal Revenue Service, Seattle, Washington, and is a person of such age and discretion as to be competent to serve papers; that on the date set forth below (s)he served a copy (or copies) of the UNITED STATES' JOINTDER IN CHAPTER 13 TRUSTEE'S MOTION TO DISMISS on the persons hereinafter named by ECF:

| | |
|---------------------|-----------------------|
| Christina L. Henry | K. Michael Fitzgerald |
| Attorney for Debtor | Chapter 13 Trustee |

DATED this 19th day of August, 2013.

/s/ Catherine L. Campbell

CERTIFICATE OF SERVICE - 1 - Special Assistant United States Attorney
915 Second Avenue, Rm. 2704
Seattle, WA 98174
(206) 220-5951